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Counsel for Defendant Google LLC

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

CHASOM BROWN, *et.al*, individually and
on behalf of all similarly situated,

Plaintiffs,

v.

GOOGLE LLC,
Defendant.

Case No. 4:20-cv-03664-YGR-SVK

**DECLARATION OF STEPHEN A.
BROOME IN SUPPORT OF GOOGLE,
LLC'S MOTION FOR SUMMARY
JUDGMENT**

Hon. Yvonne Gonzalez Rogers
Courtroom: 1 – 4th Floor
Date: May 12, 2023
Time: 1:00 p.m.

1 I, Stephen A. Broome, declare as follows:

2 1. I am a partner with the law firm of Quinn Emanuel Urquhart & Sullivan, LLP,
3 counsel for Defendant Google LLC in this matter. I am an attorney at law duly licensed to practice
4 before all courts of the State of California and admitted to practice in the Northern District of
5 California by this Court. I have personal knowledge of the matters set forth herein and am
6 competent to testify.

7 **Written Discovery**

8 2. Attached as **Exhibit 1** is a true and correct copy of Plaintiff Chasom Brown's
9 Amended Objections and Response to Defendant's First Set of Requests for Admission, dated May
10 24, 2021.

11 3. Attached as **Exhibit 2** is a true and correct copy of Plaintiff William Byatt's
12 Amended Objections and Response to Defendant's First Set of Requests for Admission, dated May
13 24, 2021.

14 4. Attached as **Exhibit 3** is a true and correct copy of Plaintiff Christopher Castillo's
15 Amended Objections and Response to Defendant's First Set of Requests for Admission, dated May
16 24, 2021.

17 5. Attached as **Exhibit 4** is a true and correct copy of Plaintiff Jeremy Davis' Amended
18 Objections and Response to Defendant's First Set of Requests for Admission, dated May 24, 2021.

19 6. Attached as **Exhibit 5** is a true and correct copy of Plaintiff Chasom Brown's
20 Amended Objections and Responses to Defendant's Second Set of Requests for Admission, dated
21 May 24, 2021.

22 7. Attached as **Exhibit 6** is a true and correct copy of Plaintiff William Byatt's
23 Amended Objections and Responses to Defendant's Second Set of Requests for Admission, dated
24 May 24, 2021.

25 8. Attached as **Exhibit 7** is a true and correct copy of Plaintiff Christopher Castillo's
26 Amended Objections Responses to Defendant's Second Set of Requests for Admission, dated May
27 24, 2021.

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1 9. Attached as **Exhibit 8** is a true and correct copy of Plaintiff Jeremy Davis's Amended
2 Objections and Responses to Defendant's Second Set of Requests for Admission, dated May 24,
3 2021.

4 10. Attached as **Exhibit 9** is a true and correct copy of Plaintiff Monique Trujillo's
5 Objections and Responses to Defendant's First and Second Sets of Requests for Admission, dated
6 June 7, 2021.

7 11. Attached as **Exhibit 10** is a true and correct copy of Plaintiff Chasom Brown's
8 Objections and Responses to Defendant's Third Set of Requests for Admission, dated July 30, 2021.

9 12. Attached as **Exhibit 11** is a true and correct copy of Plaintiff William Byatt's
10 Objections and Responses to Defendant's Third Set of Requests for Admission, dated July 30, 2021.

11 13. Attached as **Exhibit 12** is a true and correct copy of Plaintiff Christopher Castillo's
12 Objections and Responses to Defendant's Third Set of Requests for Admission, dated July 30, 2021.

13 14. Attached as **Exhibit 13** is a true and correct copy of Plaintiff Jeremy Davis'
14 Objections and Responses to Defendant's Third Set of Requests for Admission, dated July 30, 2021.

15 15. Attached as **Exhibit 14** is a true and correct copy of Plaintiff Monique Trujillo's
16 Objections and Responses to Defendant's Third Set of Requests for Admission, dated July 30, 2021.

17 16. Attached as **Exhibit 15** is a true and correct copy of Defendant's Responses and
18 Objections to Plaintiffs' First Set of Requests for Admission, dated November 6, 2020.

19 17. Attached as **Exhibit 16** is a true and correct copy of Plaintiff Chasom Brown's
20 Objections and Responses to Defendant's First Set of Interrogatories, dated January 11, 2021.

21 18. Attached as **Exhibit 17** is a true and correct copy of Plaintiff William Byatt's
22 Objections and Responses to Defendant's First Set of Interrogatories, dated January 11, 2021.

23 19. Attached as **Exhibit 18** is a true and correct copy of Plaintiff Christopher Castillo's
24 Objections and Responses to Defendant's First Set of Interrogatories, dated January 11, 2021.

25 20. Attached as **Exhibit 19** is a true and correct copy of Plaintiff Jeremy Davis's
26 Objections and Responses to Defendant's First Set of Interrogatories, dated January 11, 2021.

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28

1 21. Attached as **Exhibit 20** is a true and correct copy of Plaintiff Chasom Brown's
2 Amended Objections and Responses to Defendant's Interrogatory Nos. 1, 4, and 5, dated May 12,
3 2021.

4 22. Attached as **Exhibit 21** is a true and correct copy of Plaintiff William Byatt's
5 Amended Objections and Responses to Defendant's Interrogatory Nos. 1, 4 and 5, dated May 12,
6 2021.

7 23. Attached as **Exhibit 22** is a true and correct copy of Plaintiff Christopher Castillo's
8 Amended Objections and Responses to Defendant's Interrogatory Nos. 1, 4, and 5, dated May 12,
9 2021.

10 24. Attached as **Exhibit 23** is a true and correct copy of Plaintiff Jeremy Davis's
11 Amended Objections and Responses to Defendant's Interrogatory Nos. 1, 4, and 5, dated May 12,
12 2021.

13 25. Attached as **Exhibit 24** is a true and correct copy of Plaintiff Chasom Brown's
14 Amended Objections and Responses to Defendant's Second Set of Interrogatories, dated June 1,
15 2021.

16 26. Attached as **Exhibit 25** is a true and correct copy of Plaintiff William Byatt's
17 Amended Objections and Responses to Defendant's Second Set of Interrogatories, dated June 1,
18 2021.

19 27. Attached as **Exhibit 26** is a true and correct copy of Plaintiff Christopher Castillo's
20 Amended Objections and Responses to Defendant's Second Set of Interrogatories, dated June 1,
21 2021.

22 28. Attached as **Exhibit 27** is a true and correct copy of Plaintiff Jeremy Davis's
23 Amended Objections and Responses to Defendant's Second Set of Interrogatories, dated June 1,
24 2021.

25 29. Attached as **Exhibit 28** is a true and correct copy of Plaintiff Monique Trujillo's
26 Objections and Responses to Defendant's First and Second Sets of Interrogatories, dated June 7,
27 2021.

28

1 30. Attached as **Exhibit 29** is a true and correct copy of Plaintiff Chasom Brown's
2 Objections and Responses to Defendant's Fourth Set of Interrogatories, dated July 30, 2021.

3 31. Attached as **Exhibit 30** is a true and correct copy of Plaintiff William Byatt's
4 Objections and Responses to Defendant's Fourth Set of Interrogatories, dated July 30, 2021.

5 32. Attached as **Exhibit 31** is a true and correct copy of Plaintiff Christopher Castillo's
6 Objections and Responses to Defendant's Fourth Set of Interrogatories, dated July 30, 2021.

7 33. Attached as **Exhibit 32** is a true and correct copy of Plaintiff Jeremy Davis'
8 Objections and Responses to Defendant's Fourth Set of Interrogatories, dated July 30, 2021.

9 34. Attached as **Exhibit 33** is a true and correct copy of Plaintiff Monique Trujillo's
10 Objections and Responses to Defendant's Fourth Set of Interrogatories, dated July 30, 2021.

11 35. Attached as **Exhibit 34** is a true and correct copy of Plaintiff Chasom Brown's
12 Objections and Responses to Defendant's Fifth Set of Interrogatories, dated September 20, 2021.

13 36. Attached as **Exhibit 35** is a true and correct copy of Plaintiff William Byatt's
14 Objections and Responses to Defendant's Fifth Set of Interrogatories, dated September 20, 2021.

15 37. Attached as **Exhibit 36** is a true and correct copy of Plaintiff Christopher Castillo's
16 Objections and Responses to Defendant's Fifth Set of Interrogatories, dated September 20, 2021.

17 38. Attached as **Exhibit 37** is a true and correct copy of Plaintiff Jeremy Davis'
18 Objections and Responses to Defendant's Fifth Set of Interrogatories, dated September 20, 2021.

19 39. Attached as **Exhibit 38** is a true and correct copy of Plaintiff Monique Trujillo's
20 Objections and Responses to Defendant's Fifth Set of Interrogatories, dated September 20, 2021.

21 40. Attached as **Exhibit 39** is a true and correct copy of Plaintiffs' Objections and
22 Responses to Defendant's Sixth Set of Interrogatories, dated April 15, 2022.

23 41. Attached as **Exhibit 40** is a true and correct copy of Defendant's Amended
24 Responses and Objections to Plaintiffs' Interrogatory Nos. 1 and 3, dated October 6, 2021.

25 42. Attached as **Exhibit 41** is a true and correct copy of Defendant's Objections and
26 Responses to Plaintiffs' Seventh Set of Interrogatories, dated January 20, 2022.

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43. Attached as **Exhibit 42** is a true and correct copy of Non-party Mozilla Corporation's Objections and Responses to Plaintiffs' Subpoena to Produce documents, Information or Objects, dated August 27, 2021.

44. Attached as **Exhibit 43** is a true and correct copy of a letter from Apple to Counsel for Plaintiffs, dated September 20, 2021.

45. Attached as **Exhibit 44** is a true and correct copy of Third-party Respondent Microsoft Corporation's Objections and Responses to Plaintiffs' Subpoena, dated August 27, 2021.

Deposition and Hearing Transcripts

46. Attached as **Exhibit 142** is a true and correct copy of excerpts from the transcript of the deposition of David Monsees, taken on April 9, 2021.

47. Attached as **Exhibit 143** is a true and correct copy of excerpts from the transcript of the deposition of David Monsees, taken on June 11, 2021.

48. Attached as **Exhibit 45** is a true and correct copy of excerpts from the transcript of the deposition of Glenn Berntson, taken on June 16, 2021.

49. Attached as **Exhibit 145** is a true and correct copy of excerpts from the transcript of the deposition of Brian Rakowski, taken on August 19, 2021.

50. Attached as **Exhibit 46** is a true and correct copy of excerpts from the transcript of the deposition of Gregory Fair, taken on December 14, 2021.

51. Attached as **Exhibit 47** is a true and correct copy of excerpts from the transcript of the deposition of Plaintiff William Byatt, taken on December 20, 2021.

52. Attached as **Exhibit 48** is a true and correct copy of the document marked as Exhibit 2 to the deposition of William Byatt.

53. Attached as **Exhibit 49** is a true and correct copy of excerpts from the transcript of the deposition of Plaintiff Jeremy Davis, taken on January 7, 2022.

54. Attached as **Exhibit 50** is a true and correct copy of the document marked as Exhibit 4 to the deposition of Jeremy Davis.

55. Attached as **Exhibit 51** is a true and correct copy of excerpts from the transcript of the deposition of Plaintiff Chasom Brown, taken on January 13, 2022.

1 56. Attached as **Exhibit 52** is a true and correct copy of the document marked as Exhibit
2 1 to the deposition of Chasom Brown.

3 57. Attached as **Exhibit 53** is a true and correct copy of excerpts from the transcript of
4 the deposition of Plaintiff Christopher Castillo, taken on February 8, 2022.

5 58. Attached as **Exhibit 54** is a true and correct copy of excerpts from the transcript of
6 the deposition of Plaintiff Monique Trujillo, taken on February 11, 2022.

7 59. Attached as **Exhibit 55** is a true and correct copy of the document marked as Exhibit
8 1 to the deposition of Monique Trujillo.

9 60. Attached as **Exhibit 56** is a true and correct copy of excerpts from the transcript of
10 the deposition of Rory McClelland, taken on February 18, 2022.

11 61. Attached as **Exhibit 57** is a true and correct copy of excerpts from the transcript of
12 the deposition of Stephen Chung, taken on March 10, 2022.

13 62. Attached as **Exhibit 144** is a true and correct copy of excerpts from the transcript of
14 the deposition of Adriana Porter Felt, taken on March 17, 2022.

15 63. Attached as **Exhibit 58** is a true and correct copy of excerpts from the transcript of
16 the deposition of Mark Keegan, taken on July 15, 2022.

17 64. Attached as **Exhibit 59** is a true and correct copy of excerpts from the transcript of
18 the deposition of Bruce Schneier, taken on July 18, 2022.

19 65. Attached as **Exhibit 60** is a true and correct copy of the document marked as Exhibit
20 7 to the deposition of Bruce Schneier.

21 66. Attached as **Exhibit 61** is a true and correct copy of excerpts from the transcript of
22 the deposition of Jonathan Hochman, taken on July 20, 2022.

23 67. Attached as **Exhibit 62** is a true and correct copy of excerpts from the transcript of
24 the deposition of Glenn Berntson, taken on February 14, 2023.

25 68. Attached as **Exhibit 63** is a true and correct copy of excerpts from the transcript of
26 the deposition of Jonathan McPhie, taken on February 15, 2023.

27 69. Attached as **Exhibit 64** is a true and correct copy of excerpts from the transcript of
28 the October 24, 2022 *Calhoun* Evidentiary Hearing.

Google-Produced Documents

70. Attached as **Exhibit 65** is a true and correct copy of Plaintiff Chasom Brown's Google Subscriber Information produced in this litigation by Google bearing Bates numbers GOOG-BRWN-00029466 through GOOG-BRWN-00029489.

71. Attached as **Exhibit 66** is a true and correct copy of Plaintiff William Byatt's Google Subscriber Information produced in this litigation by Google bearing Bates number GOOG-BRWN-00030964.

72. Attached as **Exhibit 67** is a true and correct copy of Plaintiff Christopher Castillo's Google Subscriber Information produced in this litigation by Google bearing Bates numbers GOOG-BRWN-00030104 through GOOG-BRWN-00030111.

73. Attached as **Exhibit 68** is a true and correct copy of Plaintiff Jeremy Davis' Google Subscriber Information produced in this litigation by Google bearing Bates numbers GOOG-BRWN-00229529 through GOOG-BRWN-00229531.

74. Attached as **Exhibit 69** is a true and correct copy of Plaintiff Monique Trujillo's Google Subscriber Information produced in this litigation by Google bearing Bates numbers GOOG-BRWN-00229514 through GOOG-BRWN-00229518.

75. Attached as **Exhibit 70** is a true and correct copy of the Log Data Usage Rules produced in this litigation by Google bearing Bates numbers GOOG-BRWN-00029004 through GOOG-BRWN-00029009.

76. Attached as **Exhibit 71** is a true and correct copy of the Device/App/Browser Fingerprinting and Immutable Identifiers Policy produced in this litigation by Google bearing Bates numbers GOOG-BRWN-00029326 through GOOG-BRWN-00029327.

Incognito Screens

77. Attached as **Exhibit 72** is a true and correct copy of the June 2017 Incognito Screen produced in this litigation by Google bearing Bates number GOOG-CABR-04400003.

78. Attached as **Exhibit 73** is a true and correct copy of the September 2018 Incognito Screen produced in this litigation by Google bearing Bates number GOOG-CABR-04400005.

79. Attached as **Exhibit 74** is a true and correct copy of the October 2020 Incognito Screen produced in this litigation by Google bearing Bates number GOOG-CABR-04400007.

Expert Reports

80. Attached as **Exhibit 75** is a true and correct copy of the Expert Report of Bruce Schneier, dated April 15, 2022.

81. Attached as **Exhibit 76** is a true and correct copy of the Expert Report of Georgios Zervas, PHD, dated April 15, 2022.

82. Attached as **Exhibit 77** is a true and correct copy of the Expert Report of Jonathan E. Hochman, dated April 15, 2022.

83. Attached as **Exhibit 78** is a true and correct copy of the Expert Report of Professor On Amir, dated April 15, 2022.

84. Attached as **Exhibit 79** is a true and correct copy of the Expert Report of Mark Keegan.

85. Attached as **Exhibit 80** is a true and correct copy of the Expert Report Rebuttal of Georgios Zervas, PHD, dated June 7, 2022.

86. Attached as **Exhibit 81** is a true and correct copy of the Expert Report of Professor Paul Schwartz, dated June 7, 2022.

87. Attached as **Exhibit 82** is a true and correct copy of the Expert Report of Konstantinos Psounis, PH.D, dated June 7, 2022.

Declarations

88. Attached as **Exhibit 83** is a true and correct copy of the Declaration of Glenn Berntson, dated August 4, 2022.

89. Attached as **Exhibit 84** is a true and correct copy of the Declaration of Steve Ganem, dated August 4, 2022.

90. Attached as **Exhibit 85** is a true and correct copy of the Declaration of Jonathan McPhie, dated August 5, 2022.

91. Attached as **Exhibit 86** is a true and correct copy of the document marked as Exhibit 4 to the McPhie Declaration, "Create an Account" Page.

92. Attached as **Exhibit 87** is a true and correct copy of the document marked as Exhibit 15 to the McPhie Declaration.

93. Attached as **Exhibit 88** is a true and correct copy of the document marked as Exhibit 17 to the McPhie Declaration.

94. Attached as **Exhibit 89** is a true and correct copy of the document marked as Exhibit 16 to the McPhie Declaration, “Browse in private” Help Page.

95. Attached as **Exhibit 90** is a true and correct copy of the document marked as Exhibit 18 to the McPhie Declaration, “How private browsing works in Chrome” Help Page.

96. Attached as **Exhibit 91** is a true and correct copy of the document marked as Exhibit 29 to the McPhie Declaration, “How Chrome Incognito keeps your browsing private” Help Page.

97. Attached as **Exhibit 92** is a true and correct copy of the document marked as Exhibit 30 to the McPhie Declaration, “Search & browse privately” Help Page.

Google Privacy Policies

98. Attached as **Exhibit 93** is a true and correct copy of the March 25, 2016 Google Privacy Policy.

99. Attached as **Exhibit 94** is a true and correct copy of the June 28, 2016 Google Privacy Policy.

100. Attached as **Exhibit 95** is a true and correct copy of the August 29, 2016 Google Privacy Policy.

101. Attached as **Exhibit 96** is a true and correct copy of the March 1, 2017 Google Privacy Policy.

102. Attached as **Exhibit 97** is a true and correct copy of the April 17, 2017 Google Privacy Policy.

103. Attached as **Exhibit 98** is a true and correct copy of the October 2, 2017 Google Privacy Policy.

104. Attached as **Exhibit 99** is a true and correct copy of the December 18, 2017 Google Privacy Policy.

- 1 105. Attached as **Exhibit 100** is a true and correct copy of the May 25, 2018 Google
2 Privacy Policy.
- 3 106. Attached as **Exhibit 101** is a true and correct copy of the January 22, 2019 Google
4 Privacy Policy.
- 5 107. Attached as **Exhibit 102** is a true and correct copy of the October 15, 2019 Google
6 Privacy Policy.
- 7 108. Attached as **Exhibit 103** is a true and correct copy of the December 19, 2019 Google
8 Privacy Policy.
- 9 109. Attached as **Exhibit 104** is a true and correct copy of the March 31, 2020 Google
10 Privacy Policy.
- 11 110. Attached as **Exhibit 105** is a true and correct copy of the July 1, 2020 Google Privacy
12 Policy.
- 13 111. Attached as **Exhibit 106** is a true and correct copy of the August 28, 2020 Google
14 Privacy Policy.
- 15 112. Attached as **Exhibit 107** is a true and correct copy of the September 30, 2020 Google
16 Privacy Policy.
- 17 113. Attached as **Exhibit 108** is a true and correct copy of the February 4, 2021 Google
18 Privacy Policy.
- 19 114. Attached as **Exhibit 109** is a true and correct copy of the July 1, 2021 Google Privacy
20 Policy.
- 21 115. Attached as **Exhibit 110** is a true and correct copy of the February 10, 2022 Google
22 Privacy Policy.
- 23 116. Attached as **Exhibit 111** is a true and correct copy of the October 4, 2022 Google
24 Privacy Policy.
- 25 117. Attached as **Exhibit 112** is a true and correct copy of the December 15, 2022 Google
26 Privacy Policy.
- 27
- 28

Chrome Privacy Notices

118. Attached as **Exhibit 113** is a true and correct copy of the September 1, 2015 Google Chrome Privacy Notice.

119. Attached as **Exhibit 114** is a true and correct copy of the June 21, 2016 Google Chrome Privacy Notice.

120. Attached as **Exhibit 115** is a true and correct copy of the August 30, 2016 Google Chrome Privacy Notice.

121. Attached as **Exhibit 116** is a true and correct copy of the October 11, 2016 Google Chrome Privacy Notice.

122. Attached as **Exhibit 117** is a true and correct copy of the November 30, 2016 Google Chrome Privacy Notice.

123. Attached as **Exhibit 118** is a true and correct copy of the January 24, 2017 Google Chrome Privacy Notice.

124. Attached as **Exhibit 119** is a true and correct copy of the March 7, 2017 Google Chrome Privacy Notice.

125. Attached as **Exhibit 120** is a true and correct copy of the April 25, 2017 Google Chrome Privacy Notice.

126. Attached as **Exhibit 121** is a true and correct copy of the March 6, 2018 Google Chrome Privacy Notice.

127. Attached as **Exhibit 122** is a true and correct copy of the September 24, 2018 Google Chrome Privacy Notice.

128. Attached as **Exhibit 123** is a true and correct copy of the October 24, 2018 Google Chrome Privacy Notice.

129. Attached as **Exhibit 124** is a true and correct copy of the December 4, 2018 Google Chrome Privacy Notice.

130. Attached as **Exhibit 125** is a true and correct copy of the January 30, 2019 Google Chrome Privacy Notice.

1 131. Attached as **Exhibit 126** is a true and correct copy of the March 12, 2019 Google
2 Chrome Privacy Notice.

3 132. Attached as **Exhibit 127** is a true and correct copy of the October 31, 2019 Google
4 Chrome Privacy Notice.

5 133. Attached as **Exhibit 128** is a true and correct copy of the December 10, 2019 Google
6 Chrome Privacy Notice.

7 134. Attached as **Exhibit 129** is a true and correct copy of the March 17, 2020 Google
8 Chrome Privacy Notice.

9 135. Attached as **Exhibit 130** is a true and correct copy of the May 20, 2020 Google
10 Chrome Privacy Notice.

11 136. Attached as **Exhibit 131** is a true and correct copy of the January 15, 2021 Google
12 Chrome Privacy Notice.

13 137. Attached as **Exhibit 132** is a true and correct copy of the September 23, 2021 Google
14 Chrome Privacy Notice.

15 138. Attached as **Exhibit 133** is a true and correct copy of the June 23, 2022 Google
16 Chrome Privacy Notice.

17 139. Attached as **Exhibit 134** is a true and correct copy of the August 11, 2022 Google
18 Chrome Privacy Notice.

19 **Terms of Service**

20 140. Attached as **Exhibit 135** is a true and correct copy of the April 14, 2014 Google
21 Terms of Service produced in this litigation by Google bearing Bates numbers GOOG-CABR-
22 00002291 through GOOG-CABR-00002296.

23 141. Attached as **Exhibit 136** is a true and correct copy of the October 25, 2017 Google
24 Terms of Service produced in this litigation by Google bearing Bates numbers GOOG-CABR-
25 00002303 through GOOG-CABR-00002308.

26 142. Attached as **Exhibit 137** is a true and correct copy of the March 30, 2020 Google
27 Terms of Service produced in this litigation by Google bearing Bates numbers GOOG-CABR-
28 00002315 through GOOG-CABR-00002331.

